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SUBJECT: ETHIOPIA: 2008 REPORT ON INVESTMENT DISPUTES AND
EXPROPRIATION CLAIMS

Ref: State 43784

¶1. The United States Government is aware of four (4) claims by U.S. persons which may be outstanding against the Government of Ethiopia (GOE). One claim included in the 2006 report has been resolved. There are two new reported claims.

¶2. The U.S. Government is also aware of two other disputes involving the confiscation of property that may involve outstanding claims against the GOE by current U.S. citizens who were not U.S. citizens at the time of the expropriations. While the Act does not require a report on these claims, we have included the cases of Claimants D and E in this report. These cases stem from the confiscation of property during the communist Derg regime which reigned from 1974 to ¶1991. There have been two cases of expropriation reported by U.S. citizens under the current government.

¶3. Other cases occurred following the Ethiopian-Eritrean border conflict in May 1998. The GOE deported tens of thousands of persons identified as Eritrean nationals, and in many cases confiscated their assets to pay for outstanding loans. In 2000, Ethiopia and Eritrea agreed to the creation of the Ethiopia-Eritrea Claims Commission to address property claims arising out of the border conflict. The Embassy and the Department of State provide information about the Claims Commission and other assistance to these Claimants, when appropriate. No cases resulting from the Ethiopian-Eritrean border conflict were reported to the Embassy during 2005-2008.

¶4. a. Claimant A

b. 1987

c. Claimant A entered into an agreement with the Ethiopian Development and Hotels Corporation (EDHC) for the design and construction of an extension to the Addis Ababa Hilton Hotel in ¶1983. Two associated firms were also involved in the agreement. Although construction was completed and premises were handed over in 1986, due to disagreements over the contract, payment was not rendered to the construction firm until 1996. Payment to Claimant A for design and professional services remains outstanding.

At Claimant A's request, the U.S. Embassy has contacted the GOE on numerous occasions to request resolution of this outstanding claim. The then-U.S. Ambassador raised this issue in March 2000 with Ethiopia's Tourism Commissioner, a former board member on EDHC. The Commissioner reasserted his willingness to help but neglected to arrange a meeting between Claimant A's local representatives and EDHC officials. The dispute currently remains unresolved. The Embassy continues to monitor this case and has raised it in meetings with government officials. For the past six years, Claimant A has not contacted the Embassy nor requested additional U.S. Government assistance.

Update: The Department is not aware of any attempts or requests for further assistance.

15. a. Claimant B

b. 1998

c. Claimant B entered into a contract with Ethiopia's Ministry of National Defense (MOND) in Addis Ababa, Ethiopia, to provide remote sensing and imagery processing services and equipment. The contract was abruptly terminated and Claimant B was not paid for the completed portion of the contract. Payment of approximately USD 230,000 is overdue. In addition, Claimant B has incurred significant additional expenses in attempting to resolve outstanding issues and obtain final payment.

The Embassy sent a diplomatic note in July 1999 to the Ministry of Foreign Affairs requesting it to transmit an attached letter to the Chief of Procurement at MOND and to help expedite a resolution to the dispute. Following the issuance of the Embassy's diplomatic note, Claimant B has not contacted the Embassy nor requested additional U.S. Government assistance.

Update: The Department is not aware of any attempts or requests for further assistance.

16. a. Claimant C

b. 2002

c. Claimant C, a U.S.-registered company, bid on a competitive tender to manage a state-owned sugar plantation several hundred kilometers northwest of Addis Ababa. After exhaustive reviews, the tender was awarded to Claimant C. A draft management contract was initialed in March 2001 but the final contract was never signed due

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to delays within the GOE. On June 11, 2002, the Public Enterprise Supervising Agency of the Ministry of Trade and Industry finally notified the Claimant that the tender had been canceled. At the request of the Claimant, Embassy officials repeatedly brought the matter to the attention of the Minister of Trade and Industry and the Prime Minister, starting from July 2001 when it became apparent that the government was delaying finalization of the contract. Claimant had previously attempted to recover the bid security (amount not available), but feels that progress is slow or impossible. The last Claimant-initiated contact with Embassy was in October 2002 to update Embassy on attempts to resolve the case. In June 2004, Claimant C privately advised the Embassy it does not intend to actively pursue the case.

Update: The Department is not aware of any attempts or requests for further assistance.

17. a. Claimant D

b. 1992

c. Claimant D was not a U.S. citizen at the time of expropriation by the communist Derg government. The property is a liquor and alcohol factory which supplies alcohol to other factories and retail distributors around Ethiopia. The Ethiopian Privatization Agency (EPA), now the Privatization and Public Enterprises Supervising Authority, determined that the property qualified for compensation or restitution under Proclamation No. 110/1995. A valuation study was subsequently conducted and the Claimant was offered either compensation or restitution of the property. Following an interruption of the processing of the case due to the Ethiopian-Eritrean border conflict, a subsequent proclamation was passed (No. 193/2000), which precludes restitution of certain properties. Based on this proclamation, the Board of Management of EPA determined that the Claimant was only eligible for compensation.

EPA notified the Claimant of the offer. Claimant D has refused to accept the compensation claim, insisting that a) restitution should still be offered and b) the claim does not accurately reflect the value of the property. The compensation claim is valued by EPA at approximately USD 320,000.

Embassy officers have raised the issue in meetings with the Prime

Minister, the General Manager and Deputy General Manager of EPA, the Vice President of the World Bank's Multilateral Investment Guarantee Agency (MIGA), and officials at the Ministry of Foreign Affairs. Embassy officers have also discussed the case on a number of occasions with Claimant D. EPA has provided documentation to Embassy officers on the case, including official correspondence from EPA to Claimant D. This information states the compensation claim offered by EPA as well as the principles on which the valuation was calculated. Embassy officers have also met with MIGA, who confirmed that the valuation of the property was done in accordance with MIGA principles. The Finance Minister has stated in writing his willingness to discuss the valuation figure with the Claimant. Claimant D indicated in May 2005 to Embassy officials that he may be willing to meet with the government to discuss the value of the compensation claim. To date, and contrary to long-standing Embassy advice, Claimant D has not sought legal counsel.

Update: The Claimant has not contacted the Embassy since 2005. The Embassy continues to monitor this case closely. The case is still pending. The Embassy is not aware of any attempts or requests for further assistance.

18. a. Claimant E

b. 1998

c. Claimant E was not a U.S. citizen at the time of expropriation by the communist Derg government in July 1975. The property is a hotel in Addis Ababa established by Claimant E's father in 1962. The Restitution Department of the Ethiopian Privatization Agency (EPA), as required by Ethiopian law, valued investments made to the property during the period of expropriation. These investments were valued by EPA at USD 770,000. The Claimant was not satisfied with the valuation and objected to the requirement that he pay the Ethiopian government to receive his property back. Claimant E requested that the EPA use a different method of valuation. Claimant considered pursuing legal action in the United States. Embassy officials have, over the past three years, discussed the case several times with the Claimant, EPA, and other GOE officials.

Despite the Derg government's ouster in 1991, the GOE continued to control the property until April 2007. In December 2006, Claimant informed Embassy officials that he had agreed to pay the GOE the USD 770,000 that EPA had decided to charge him, in order to recover title to his hotel. The EPA arrived at the USD 770,000 figure by claiming it had invested an equivalent sum in upgrading the hotel (e.g., purchasing new furniture); when under the control of the

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current government, the hotel had been operated by the Ministry of Tourism and Culture. According to the Claimant, the hotel was renovated in 1986 and again in 1997, when it was under the control of the former Communist Derg government and then the current government, respectively. As a condition of recovering title, the Claimant is responsible for maintaining 120 hotel employees hired by the current government, a sharp increase from the 46 original employees working at the hotel when originally operated by the Claimant's father. The Claimant has now recovered possession of his hotel, and is seeking financing for further renovations. The Claimant informed the Embassy in June 2007 that he had taken custody of the hotel as of April 1, 2007 (following seven years of negotiations with the government), and was now operating it by himself. In this way, the case has now been resolved.

Update: Claimant recently informed the Embassy that he is having difficulties obtaining the title to the hotel from the city of Addis Ababa. Claimant has retained legal counsel and is not asking for any additional assistance at this time, but wanted the Embassy to be aware.

19. a. Claimant F

b. 2001

c. Claimant F was not a U.S. citizen at the time the claim arose. Claimant F was a U.S. national when the claim was submitted.

Claimant F, who became a U.S. citizen in 1998, originally tried to resolve his claim through a MIGA-GOE agreement, whereby MIGA would help facilitate resolution of claims by foreign nationals. Claims by citizens of the United States and Greece were not covered by this agreement, since other bilateral agreements were in place. MIGA was not successful in this case, and the agreement has since expired. Claimant F subsequently applied for assistance under a 1985 U.S.-Ethiopian claims agreement. However, he was ineligible, since he was not a U.S. citizen at the time the claim arose. In 2007, he sought assistance from Embassy officials.

The GOE has asserted that Claimant's claim was covered by the 1985 U.S.-Ethiopia claims agreement referred to above, and that therefore the 1985 claims agreement relieves the GOE of any obligations or liabilities related to the claim. In contrast, the U.S. Department of Justice has indicated that the claim never fell within the scope of the 1985 claims agreement because Claimant was not a U.S. citizen at the time the claim arose. Ethiopia's Ministry of Finance and Economic Development (MOFED) claims to have sent a letter to the Embassy's Commercial Attache more than ten years ago; however, the Embassy has no record of this letter and MOFED officials cannot identify the attache, nor can they produce copies of the letter.

In September 2006, Embassy officials requested that MOFED provide the Embassy with a copy of the letter mentioned in the MOFED's correspondence. Repeated attempts to contact MOFED officials have failed to produce any additional results, as the few individuals tracking this issue in MOFED have either transferred or are on extended vacations.

Claimant F has requested that the Embassy send MOFED a letter correcting MOFED's assertion about Claimant's eligibility under the 1985 claims agreement and requesting that the Ministry work with the Claimant on a settlement. In May 2007, Embassy officials attempted to contact Claimant F to obtain further information on his correspondence with MOFED and on any new developments

Update: Claimant F re-contacted the Embassy in January 2008 noting that the government of his citizenship at the time of expropriation, and still his dual-citizenship (Greece), is pursuing the matter with the GoE. As such, the claimant requested the Embassy to temporarily stand down in advocating for his case.

10. a. Claimants G & H

b. 2007

c. Claimants G & H were U.S. citizens at the time of the expropriation of an 85 hectare farm inherited from the late father of Claimant G by the Bora Wereda administration of the Oromia Regional Government. This 85 hectare farm land had been managed by Claimant G (legal co-owner and representative of his three brothers residing in the United States who are entitled to the heir) and Claimant H who is co-investor.

The Claimants had presented an investor certificate issued by the Federal Investment Agency and copies of income tax receipts paid up to December 2007.

The Claimants estimate the property confiscated worth about USD 16,000,000. The property comprises of 17 hectares of ready to harvest land planted with vegetables, fruits and food crops, 3.5

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hectares of seedling nursery, residential building, barn, 37 live cattle, generators, irrigation pumps, a pesticide sprayer, a variety of farm tools and supporting equipment. There is no official or third-party valuation of the land in question.

The Claimants allege that they were forced out of the farm land under duress and forcibly removed from the farm at gun point by Eastern Oromia Administration, Bora Wereda Officials and the local farmers association leadership.

The Claimants have appealed at the Regional as well as higher, national authorities in order to find administrative solutions but

to no avail so far. They have asked the Embassy to delay involvement until they exhaust every available venue. Claimants G&H last contacted the Embassy in March 2008.

¶11. a. Claimant I

b. 2008

c. Claimant I was an American Citizen at the time of the expropriation of his land and other properties. Claimant I returned to Ethiopia in 2005 to partake in commercial farming in the Amhara regional state.

The property confiscated is a 400 hectare land and other farming implements (tractors, generator sets etc.) and recent harvest years produce of sesame seeds.

The Claimant reported to Embassy that the 400 hectares leased to him by the Amhara National Regional State Land Administration Bureau in August 2005 for 15 years. The land is in Gondar, at the Wereda of Quara which is along the international border with Sudan.

The Claimant alleges that, one morning, government troops of the Sudan government, ransacked his residence, burned his house and whole farm, kidnapped his workers, and took away everything from his farm land with no compensation at all.

He appealed for the assistance at the kebele, wereda and federal authority level but to no avail, receiving only a complete denial of the incident.

Claimant I was afraid for the life of his workers and relatives allegedly kidnapped by Sudanese troops from his farm, and also for his wife and two siblings when he reported this incident.

This Claimant has asked for Embassy's intervention in this matter only after he exhausts his efforts at the Federal level.

Embassy has advised the Claimant to retain legal counsel to further follow up the matter. A list of attorneys has been provided.

¶12. List of Claimants:

Claimant A: Ed Reidel, WBTL Associates

Claimant B: Jim Fry, Earth Satellite Corporation

Claimant C: Schaffer and Associates International, Finchaa Management Contract

Claimant D: Berhane Gebremedin, National Alcohol and Liquor Factory

Claimant E: Bisrat Seifu, Hotel d'Afrique

Claimant F: Paul Constantinou

Claimant G: Yared Eshetu H. Giorgis

Claimant H: Hagos Girma

Claimant I: Tilahun Tedla

YAMAMOTO